

## DOCKET SECTION

PRESIDING OFFICER'S  
RULING NO. R97-1/80

UNITED STATES OF AMERICA  
POSTAL RATE COMMISSION  
WASHINGTON, D.C. 20268

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POSTAL RATE COMMISSION  
WASHINGTON, D.C.

Postal Rate and Fee Changes

Docket No. R97-1

### PRESIDING OFFICER'S RULING ON DAVID POPKIN'S AND DOUGLAS CARLSON'S MOTIONS TO COMPEL

(December 12, 1997)

On November 20, 1997, David Popkin, an intervenor, filed a Motion to Compel, (Popkin Motion) in this docket asking that the Postal Service be compelled to answer several interrogatories. And on November 26, 1997, Douglas Carlson also filed a motion, (Carlson Motion) seeking to compel an answer to one of the same interrogatories, DBP/USPS-6(n). The Postal Service responded to these two motions in a series of filings. First, on December 1, 1997 it filed an "Opposition of the United States Postal Service to David B. Popkin's Motion to Compel Responses to DBP/USPS Interrogatories (DBP/USPS-33(g)-(i) and 88)," (Opposition to 33). Next on December 11, 1997, it filed four more documents responding to issues raised in these motions: 1) "Opposition of the United States Postal Service to David B. Popkin's Second Motion to Compel Responses to Interrogatories DBP/USPS-10-12," (Opposition to 10-12); 2) "Opposition of the United States Postal Service to David Popkin Motion to Compel Further Responses to DBP/USPS-6(n&r), 7(l), 52(o), 58(a,d&k)," (Opposition to 6,7,52 and 58); 3) "Response of the United States Postal Service to David B. Popkin Motion to Compel a Response to Interrogatory DBP/USPS-19(a)," (Response to 19(a)); and 4) "Opposition of the United States Postal Service to Douglas Carlson Motion to Compel a Further Response to DBP/USPS-6(n)," (Response to 6(n)).

## DISCUSSION

Mr. Popkin seeks answers (or better answers) to several interrogatories: DBP/USPS-6(n), 6(r), 7(l), 7(m), 10(a-jj), 11(c-j), 12(c-p), 19(a), 33(g-i), 52(o), 58(a), 58(d), 58(k), 69-71, and 88.

Interrogatory 6(n) asks whether the collection time marked on the Postal Service's collection boxes is sometimes made well before the actual collection time in order to avoid mail being collected early. The Postal Service does not deny that this phenomenon may occur and indicates that without a survey, it does not know how often it occurs. I am not convinced that this practice has any relevance to the value of service provided to First-Class Mail. The Postal Service has indicated the extent of its knowledge on this issue. See Response to 6(n), at 1-2. It need not respond further.

Interrogatory 6(r) asks whether the situation described in interrogatory 6(n) would violate Postal Operations Manual §§ 313.2 and 313.3. The Postal Service has indicated that the scenario described in interrogatory 6(n) could violate the POM. Opposition to 6,7,52 and 58, at 2-3. This response is sufficient given that operational details are not at issue in this rate case.

Interrogatories 7(l) and 7(m) concern changes in First-Class Mail delivery standards. The Postal Service has further explained its response that no changes of national significance have occurred. Opposition to 6,7,52 and 58 at 3-4. This response is adequate given that the Postal Service has indicated that it simply does not have additional information to provide. *Id.*

Interrogatories 10(a-jj) and 11(c-j) deal with operational details of Express Mail. The value of service of Express Mail is a relevant issue. Indeed the Postal Service admits that "the general level of service" is relevant to this rate case. Opposition to 10-12 at 2. However, I must agree with the Postal Service that details concerning the internal handling of different types of Express Mail receive are simply not at issue.

Requiring responses to interrogatories 10(a-jj) and 11(c-j) is not likely to lead to the discovery of relevant information and would be quite burdensome.

Mr. Popkin claims that interrogatories 12(c-p) are aimed at discovering the extent to which Express Mail has delivery standards that match or exceed those of Special Delivery. Popkin Motion at 3. I don't recall the Postal Service promising to enhance Express Mail in order to create a substitute for Special Delivery, nor does Mr. Popkin provide a citation to such an undertaking by the Service. Generally, the delivery standards of an eliminated service have no bearing on issues in a rates and classification case. Hence, the Postal Service need not answer interrogatories 12(c-p).

Interrogatory 19(a) asks for the revenues and expenses from philatelic sales over the past ten years. The Postal Service insists it does not have the information in the form that Mr. Popkin would like, but the Postal Service also indicates it will file a library reference containing the information it does have on this subject and send a copy to Mr. Popkin. Response to 19(a) at 2. This is sufficient.

Interrogatories 33(g-i) concern the use of the a red validating stamp on return receipts. Mr. Popkin claims the Postal Service did not respond adequately. The Postal Service's filing in response to Mr. Popkin's motion sufficiently explain the Postal Service's rationale for the discontinuance of the red validating stamp. In short, the stamp was discontinued to avoid customer confusion over the date of delivery. See Opposition to 33 at 1-2. The Postal Service has adequately addressed these interrogatories.

Interrogatory 52(o) inquires why the Postal Service did not consider proposing a Standard Mail rate and classification for postcards. The Service has already indicated that it did not consider this. See Response of the United States Postal Service to Interrogatories of David Popkin, filed November 14, 1997, at 9. The Postal Service further states that it does not know why its individuals with rate and classification development responsibilities did not think about such a proposal. Opposition to 6,7,52

and 58 at 4. Mr. Popkin will have to accept that the Postal Service does not know why it has not considered this proposal.

Interrogatories 58(a), 58(d), 58(k) concern the Postal Service verification of proper postage on mail. Interrogatory 58(a) asks about the Postal Service's verification of adequate postage on letters through the use of phosphor ink on stamps. The Service has now explained why automated recognition of phosphor ink cannot be utilized. Opposition to 6,7,52 and 58 at 5. The Service indicates that it will file an answer to 58(d), so Mr. Popkin's Motion with respect to this interrogatory is moot. Interrogatory 58(k) requests copies of tests conducted on the extent of short paid mail. The Postal Service responded that it has not conducted tests to determine the extent of short paid mail. See Response of the United States Postal Service to Interrogatories of David Popkin, filed November 14, 1997, at 12. The Postal Service also explained that its data systems generate estimates of lost revenue from short paid First-Class Mail and the Postal Service provided these estimates to Mr. Popkin. *Id.* Nothing more can reasonably be expected short of asking the Postal Service to conduct the tests.

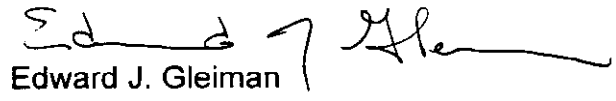
Mr. Popkin is still waiting for answers to interrogatories 69-71. The Postal Service said a month ago that it was "working expeditiously" to answer interrogatories 69-71, filed on October 7, 1997. Response of the United States Postal Service to David B. Popkin's Motion to Compel Responses to DBP/USPS Interrogatories, filed November 14, 1997, at 1. Obviously, the Postal Service has not done what it indicated. These are straightforward questions and should be answered promptly.

Interrogatories 88(a-k) ask a series of questions about certified mail and return receipt. Mr. Popkin argues these are follow-up questions. Special Rule of Practice 2(D) provides for follow-up interrogatories to "clarify" or "explain" an answer. P.O. Ruling R97-1/4, August 1, 1997. In his response to interrogatory DBP/USPS-78(b), Mr. Plunkett indicated that he believes the growth in return receipt volume over the last ten years demonstrates that it is a "good value." See Response of United States Postal Service Witness Plunkett to Interrogatories of David B. Popkin, filed October 21, 1997,

at 8-9. Mr. Popkin seeks to use this statement as a basis for follow-up interrogatories. The majority of the interrogatories concern the value of the service, and Mr. Popkin could have easily filed these questions before the close of discovery. However, in interrogatories 88(i) and (j), Mr. Popkin seeks an explanation of Mr. Plunkett's statement concerning the growth in return receipt volume over the past ten years. This is a proper use of follow-up interrogatories and the Postal Service should answer these two subparts.

#### RULING

The Postal Service is directed to answer interrogatories 69-71 and 88(i) and (j).

  
Edward J. Gleiman  
Presiding Officer